

**OFFICIAL PROCEEDINGS :
OF THE CITY OF PEORIA, ILLINOIS :**

Council Chambers, Peoria, Illinois, February 10, 2004, a Regular Meeting of the City Council was held this date at 6:15 P.M., at City Hall, Council Chambers, 419 Fulton Street, Mayor Pro Tem Gale Thetford presiding.

ROLL CALL

Roll call showed the following Council Members present: Ardis, Grayeb, Gulley, Morris, Nichting, Spears, Teplitz, Turner, Mayor Pro Tem Thetford – 9; Absent: Sandberg, Mayor Ransburg - 2.

INVOCATION & PLEDGE OF ALLEGIANCE

Mayor Pro Tem Thetford requested a moment of silent prayer and then she led the Pledge of Allegiance.

WELCOME to FORMER CITY COUNCIL MEMBER DOROTHY SINCLAIR

Mayor Pro Tem Thetford recognized former City Council Member Dorothy Sinclair in the audience and welcomed her to the meeting.

PROCLAMATIONS, COMMENDATIONS, ETC.

PRESENTATION: RED CROSS BADGES for LIFE CAMPAIGN

PROCLAMATION: HISTORICAL SOCIETY CITY TOUR GUIDES

PROCLAMATION: CHILD PASSENGER SAFETY MONTH

MINUTES

Council Member Nichting moved to approve the minutes of the Executive Session and Regular City Council Meeting held on February 3, 2004, as printed, with a correction on Page 26430 to the last line in the fifth paragraph to delete the words “if it was designated by the payee” and insert “unless designated otherwise by the payor”; seconded by Council Member Morris.

Approved by roll call vote.

Yeas: Ardis, Grayeb, Gulley, Morris, Nichting, Spears, Teplitz, Turner, Mayor Pro Tem Thetford - 9;

Nays: None.

PETITIONS, REMONSTRANCES & COMMUNICATIONS

CONSIDERATION OF CONSENT AGENDA ITEMS BY OMNIBUS VOTE, for the City of Peoria, with Recommendations as Outlined:

(04-050) Communication from the City Manager and Corporation Counsel Recommending Approval of RESOLUTION NO. 04-050 Regarding the RELEASE of EXECUTIVE SESSION MINUTES, SCHEDULES A and B.

- (04-051) **Communication from the City Manager and Finance Director/Comptroller Recommending Adoption of ORDINANCE NO. 15,580 ABATING the TAX Heretofore Levied to Pay SPECIAL SERVICE AREA TAXES on the RIVERWEST NEIGHBORHOOD (Formerly The Colonel John Warner Homes Development).**
- (04-052) **Communication from the City Manager and Finance Director/Comptroller Recommending Adoption of ORDINANCE NO. 15,581 ABATING the TAX Heretofore Levied to Pay Principal of and Interest on GENERAL OBLIGATION BONDS, SERIES 1996D, 1997A and B, 1998A, B, C, D, E, and F, 1999A, 2000A, B, and C, 2001A, B, C, and D, 2002A and B, and 2003A and B Issued by the City of Peoria.**
- (04-053) **Communication from the City Manager and Corporation Counsel Recommending Adoption of an ORDINANCE Amending CHAPTER 20 of the Code of the City of Peoria Relating to CURFEW with RESPECT TO MINORS.**
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- (04-054) **Communication from the City Manager and Corporation Counsel Recommending Adoption of an ORDINANCE Amending CHAPTER 18 of the Code of the City of Peoria Delegating to the CITY MANAGER the RESPONSIBILITY for ESTABLISHING ADULT BUSINESS LICENSE FEES Pursuant to Section 18-82 of the Code of the City of Peoria.**
**
- (04-055) **STREET LIGHT REQUEST – 2319 WEST MARQUETTE, in the Annual Amount of \$70.45.**

Council Member Nichting moved to approve the Consent Agenda items as outlined in the Council communications; seconded by Council Member Morris.

Council Member Grayeb requested Item No. 04-053 be removed from the Consent Agenda for further discussion.

Council Member Nichting requested Item No. 04-054 be removed from the Consent Agenda for further discussion.

Item Nos. 04-050 through 04-055 (excluding 04-053 and 04-054 which were removed from the Consent Agenda for further discussion) were approved by roll call vote under the Omnibus Vote Designation.

Yeas: Ardis, Grayeb, Gulley, Morris, Nichting, Spears, Teplitz, Turner, Mayor Pro Tem Thetford - 9;

Nays: None.

- (04-053) **Communication from the City Manager and Corporation Counsel Recommending Adoption of an ORDINANCE Amending CHAPTER 20 of the Code of the City of Peoria Relating to CURFEW with RESPECT TO MINORS.**
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In discussion with Council Member Grayeb, Corporation Counsel Randy Ray explained the proposed Ordinance remained the same as the previous curfew Ordinance, but it added offenses for First Amendment activity and it required for the Police Officer to reasonably believe those defenses were not applicable. He said the reason for the change was a 7th Circuit Court of Appeals opinion rendered January 26, 2004. He said he did not feel it would change the day to day operations, but it brought into line what the Court had mandated.

Council Member Morris requested a report back regarding the number of curfew violations there were in the past year.

Following some brief comments, Council Member Grayeb moved to adopt the Ordinance amending Chapter 20 of the Code of the City of Peoria relating to Curfew with respect to minors; seconded by Council Member Teplitz.

ORDINANCE NO. 15,582 was approved by roll call vote.

Yeas: Ardis, Grayeb, Gulley, Morris, Nichting, Sandberg, Spears, Teplitz, Turner,
Mayor Pro Tem Thetford - 9;

Nays: None.

**(04-054) Communication from the City Manager and Corporation Counsel Recommending
** Adoption of an ORDINANCE Amending CHAPTER 18 of the Code of the City of
 Peoria Delegating to the CITY MANAGER the RESPONSIBILITY for
 ESTABLISHING ADULT BUSINESS LICENSE FEES Pursuant to Section 18-82
 of the Code of the City of Peoria.**

In discussion with Council Member Nichting regarding the purpose of the change in the proposed Ordinance, City Manager Randy Oliver explained there was some concern that a \$100 fee was being charged to employees of adult businesses, regardless what their job was, such as dish washers were being charged a \$100 fee. He said it was felt there should be a different fee schedule that would be more appropriate. He indicated he would be willing to do whatever the Council desired. He said he would be able to bring a specific rate schedule back for their consideration in the near future.

Council Member Nichting said the proposed Ordinance would delegate the authority of setting fees to the City Manager rather than having the Council vote on fees formally. He said he felt it was important that the public know that the City Manager could recommend changes to those fees and it should be recognized at the beginning of budget deliberations. He said he saw no reason to make any changes in the procedure at this time.

Council Member Nichting moved to deny the adoption of the Ordinance amending Chapter 18 of the Code of the City of Peoria delegating to the City Manager the responsibility for establishing Adult Business License Fees pursuant to Section 18-82 of the Code of the City of Peoria; seconded by Council Member Ardis.

Council Member Morris spoke in support of adopting the proposed Ordinance. He said he felt the Council should give the authority of setting fees to the City Manager so the Council could concentrate on larger policy issues.

Council Member Teplitz said she agreed with Council Member Morris' comments. She questioned if the Liquor Commissioner was involved in this discussion.

City Manager Oliver said Council Member Turner, the Liquor Commissioner, brought to his attention that he felt there was disparity in fees. He said all employees in adult business establishments were charged the same fee and compensation levels were quite different and were not equitable.

Council Member Ardis pointed out he felt this was minor in the scope of things, but the process in place did not need to be fixed. He said the Council should give direction to the City Manager to change fees and proceed from there.

Council Member Turner spoke in support of the proposed Ordinance. He said the proposed Ordinance was not so much about adult businesses as it was about leveling the playing field for dish washers or cooks who worked in adult businesses. He said any other dish washers or cooks did not have to pay this fee. He said he felt turning the task of establishing fees over to the City Manager would be the correct thing to do.

In discussion with Mayor Pro Tem Thetford regarding if the Ordinance could be changed again if a problem developed, Corporation Counsel Randy Ray confirmed that the Ordinance could be changed back at any point in time. He added there were maximums already built into the proposed Ordinance and there was a standard, so it was not just an unbridled delegation.

Council Member Turner said he would like to give the City Manager authority for all fees. He said he did not feel it had anything to do with taking the policy setting authority away from the Council.

Council Member Spears said the fees may only change from year to year; however, he said he viewed the fees as taxes, and he felt it was the City Council's job to determine taxes. He said he felt the public needed to be notified and should be able to listen to the reasons those taxes would be increased. He said it was the City Manager's job to make recommendations on fees and provide the reasons why they should be changed so the Council could vote. He urged the Council not to adopt the proposed Ordinance.

In discussion with Council Member Teplitz regarding what the maximum fees were, Corporation Counsel explained that maximum fee for adult business licenses was \$200 and \$100 annual renewal. He said for the employees, the maximum fee was \$100 for the initial application and \$50 per year for renewals.

Motion to deny the adoption of the Ordinance amending Chapter 18 of the Code of the City of Peoria delegating to the City Manager the responsibility for establishing Adult Business License Fees pursuant to Section 18-82 of the Code of the City of Peoria was DEFEATED by roll call vote.

Yeas: Ardis, Grayeb, Nichting, Spears – 4;

Nays: Gulley, Morris, Teplitz, Turner, Mayor Pro Tem Thetford - 5.

Council Member Morris moved to adopt the Ordinance amending Chapter 18 of the Code of the City of Peoria delegating to the City Manager the responsibility for establishing Adult Business License Fees pursuant to Section 18-82 of the Code of the City of Peoria; seconded by Council Member Turner.

In discussion with Council Member Gulley regarding the City Manager's intent regarding the motion, City Manager Randy Oliver said he wanted to establish a fee structure which was fair and equitable, based on a number of factors to include the function being performed as well as the compensation and need for specific police or background checks.

Following a brief discussion, Council Member Turner moved for a Substitute Motion to defer this item for one week; seconded by Council Member Teplitz.

Council Member Spears requested a report back regarding the costs associated with performing background checks. He said if the City did not at least break even on costs, then the City would be subsidizing adult use businesses.

City Manager Randy Oliver said he would be glad to comply with the request; however, this would take some work with the employers. He said he felt it was in the best interest of the employer to have an employee who did not have a criminal record, as well as in the best interest of the City.

Council Member Nichting requested a report back from the City Manager regarding fees that he would recommend.

Council Member Turner moved to amend his motion to defer this item until the March 2, 2004, Regular City Council Meeting; seconded by Council Member Teplitz.

City Manager Randy Oliver suggested he would develop and provide a methodology and give it to Council so they could approve the rates. He said in the spirit of cooperation, he would be glad to provide the Council with his thoughts on fees. He said the Council could proceed from there.

Motion to defer this item until the March 2, 2004, Regular City Council Meeting was approved by roll call vote.

Yeas: Ardis, Grayeb, Gulley, Morris, Nichting, Spears, Teplitz, Turner, Mayor Pro Tem Thetford - 9;

Nays: None.

(04-056) Communication from the City Manager and Corporation Counsel Recommending Approval of a RESOLUTION Regarding the RELEASE of EXECUTIVE SESSION MINUTES Relating to the CITY MANAGER SEARCH (Schedule C Not to be Released).

Council Member Teplitz moved to approve the Resolution regarding the release of Executive Session Minutes relating to the City Manager Search (Schedule C), and concur with the recommendation not to release; seconded by Council Member Turner.

RESOLUTION NO. 04-056 was approved by roll call vote.

Yeas: Ardis, Grayeb, Gulley, Morris, Nichting, Teplitz, Turner, Mayor Pro Tem Thetford - 8;

Nays: Spears - 1.

UNFINISHED BUSINESS

(03-393) Communications with Recommendation to Adopt the Following:

A-1. Communication from the City Manager and Interim Director of Planning and Growth Management Recommending Authorization for the City Manager to Execute and Approve the ASSIGNMENT of the ANNEXATION AGREEMENT Related to the ANNEXATION RESOLUTION Approved July 15, 2003;

Council Member Nichting moved to concur with the recommendation to authorize the City Manager to execute and approve the Assignment of the Annexation Agreement related to the Annexation Resolution approved July 15, 2003; seconded by Council Member Grayeb.

Approved by roll call vote.

Yeas: Ardis, Grayeb, Gulley, Morris, Nichting, Spears, Teplitz, Turner, Mayor Pro Tem Thetford - 9;

Nays: None.

B. Communication from the City Manager and Interim Director of Planning and Growth Management Recommending Adoption of an ORDINANCE ANNEXING Territory contiguous to the City of Peoria – Approximate Address of 7800 N. ROUTE 91, Immediately South of a Five -Acre Parcel Previously Annexed (Replacement Ordinance);

Council Member Nichting moved to adopt an Ordinance annexing territory contiguous to the City of Peoria – approximate address of 7800 N. Route 91, immediately south of a five-acre parcel previously annexed; seconded by Council Member Grayeb.

Motion to adopt ORDINANCE NO. 15,583 was approved by roll call vote.

Yeas: Ardis, Grayeb, Gulley, Morris, Nichting, Spears, Teplitz, Turner, Mayor Pro Tem Thetford - 9;

Nays: None.

C. Communication from Interim Director of Planning and Growth Management Recommending Adoption of an ORDINANCE Rezoning a 15-ACRE SHOPPING CENTER for the Property Located at the NORTHEAST CORNER of the INTERSECTION of ROUTE 91 and WAR MEMORIAL DRIVE From the Present Class A-2 (Agriculture) District in the County to a Class C-2 (Large Scale Commercial) District and Granting a SPECIAL USE.

Council Member Nichting moved to adopt an Ordinance rezoning a 15-acre Shopping Center for the property located at the Northeast corner of the Intersection of Route 91 and War Memorial Drive from the present Class A-2 (Agriculture) District in the County to a Class C-2 (Large Scale Commercial) District and granting a Special Use; seconded by Council Member Grayeb.

Motion to adopt ORDINANCE NO. 15,584 was approved by roll call vote.

Yeas: Ardis, Grayeb, Gulley, Morris, Nichting, Spears, Teplitz, Turner, Mayor Pro Tem Thetford - 9;

Nays: None.

(01-800) REQUEST for the ORDINANCE Amending CHAPTER 3 of the Code of the City of Peoria Relating to ZONING REQUIREMENTS for LIQUOR LICENSE SITE APPROVAL be DEFERRED UNTIL the MARCH 2, 2004 REGULAR CITY COUNCIL MEETING.

Council Member Ardis moved to defer this item until the March 2, 2004, Regular City Council Meeting; seconded by Council Member Nichting.

Motion to defer this item until the March 2, 2004, Regular City Council Meeting was approved by roll call vote.

Yeas: Ardis, Grayeb, Gulley, Morris, Nichting, Spears, Teplitz, Turner, Mayor Pro Tem Thetford - 9;

Nays: None.

NEW BUSINESS**ANNOUNCEMENT Regarding the SECOND TOWN HALL MEETING**

Council Member Spears said the Fourth District would host the Second Town Hall Meeting on February 26, 2004, at 6:00 P.M. at Lakeview Museum. He said the City Manager, Mayor and members of Council would be in attendance. He also invited the public to attend.

ANNOUNCEMENT REGARDING LIQUOR LICENSE RENEWALS

City Clerk Mary Haynes announced that letters had been sent to Liquor Establishment owners who owed taxes or fees to the City. She encouraged these owners to handle these payments as soon as possible so the new Liquor Licenses could be issued promptly.

CITIZEN REQUESTS TO ADDRESS THE COUNCIL

No citizens came forward to address the Council.

EXECUTIVE SESSION

It was determined that an Executive Session was not needed.

ADJOURNMENT

Council Member Teplitz moved to adjourn the Council Meeting; seconded by Council Member Morris.

Approved by viva voce vote.

The Council Meeting adjourned at 7:14 P.M.

bb

Mary L. Haynes, MMC
City Clerk, Peoria, IL